

AMENDED IN SENATE APRIL 10, 2000

SENATE BILL

No. 1950

Introduced by Senator Lewis

February 24, 2000

An act to amend Sections 395 and 395.01 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1950, as amended, Lewis. Military leave: inactive duty training.

Under existing law, a public employee who is a member of the reserve corps of the armed forces of the United States or of the National Guard or the Naval is entitled to a temporary military leave of absence for active military training, if certain requirements are met. The employee is entitled to receive his or her pay as a public employee for the first 30 days of the leave period, not to exceed 30 days in one fiscal year. Inactive duty training does not qualify for paid leave.

This bill would revise these provisions in conformity with recent changes in federal law to provide that inactive duty training also qualifies for paid leave. By requiring local government entities to provide these additional benefits to their employees, the bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do

not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—~~

2 ~~SEC. 2.—~~

3 *SECTION 1.* Section 395 of the Military and Veterans
4 Code is amended to read:

5 395. Any public employee who is a member of the
6 reserve corps of the armed forces of the United States or
7 of the National Guard or the Naval Militia is entitled to a
8 temporary military leave of absence as provided by
9 federal law while engaged in military duty ordered for
10 purposes of active military training, inactive duty
11 training, encampment, naval cruises, special exercises or
12 like activity, providing that the period of ordered duty
13 does not exceed 180 calendar days, including time
14 involved in going to and returning from that duty.

15 The employee has an absolute right to be restored to
16 the former office or position and status formerly had by
17 him or her in the same locality and in the same office,
18 board, commission, agency, or institution of the public
19 agency upon the termination of temporary military duty.
20 If the office or position has been abolished or otherwise
21 has ceased to exist during his or her absence, he or she
22 shall be reinstated to a position of like seniority, status,
23 and pay if a position exists, or if no position exists the
24 employee shall have the same rights and privileges that
25 he or she would have had if he or she had occupied the
26 position when it ceased to exist and had not taken
27 temporary military leave of absence.

28 Any public employee who has been in the service of the
29 public agency from which the leave is taken for a period

1 of not less than one year immediately prior to the date
2 upon which a temporary military leave of absence begins,
3 shall receive the same vacation, sick leave, and holiday
4 privileges and the same rights and privileges to
5 promotion, continuance in office, employment,
6 reappointment to office, or reemployment that the
7 employee would have enjoyed had he or she not been
8 absent therefrom; excepting that an uncompleted
9 probationary period, if any, in the public agency, must be
10 completed upon reinstatement as provided by law or rule
11 of the agency. For the purposes of this section, in
12 determining the one year of service in a public agency all
13 service of the employee in recognized military service
14 shall be counted as public agency service.

15 If this section is in conflict with a memorandum of
16 understanding reached pursuant to Chapter 12
17 (commencing with Section 3560) of Division 4 of Title 1
18 of the Government Code, the memorandum of
19 understanding shall be controlling without further
20 legislative action, except that if the memorandum of
21 understanding requires the expenditure of funds, it shall
22 not become effective unless approved by the Legislature
23 in the annual Budget Act.

24 ~~SEC. 3.~~—

25 *SEC. 2.* Section 395.01 of the Military and Veterans
26 Code is amended to read:

27 395.01. (a) Any public employee who is on
28 temporary military leave of absence for military duty
29 ordered for purposes of active military training, inactive
30 duty training, encampment, naval cruises, special
31 exercises, or like activity as such member, provided that
32 the period of ordered duty does not exceed 180 calendar
33 days including time involved in going to and returning
34 from the duty, and who has been in the service of the
35 public agency from which the leave is taken for a period
36 of not less than one year immediately prior to the day on
37 which the absence begins, is entitled to receive his or her
38 salary or compensation as a public employee for the first
39 30 calendar days of any such absence. Pay for those
40 purposes may not exceed 30 days in any one fiscal year.

1 For the purposes of this section, in determining the one
2 year of public agency service, all service of a public
3 employee in the recognized military service shall be
4 counted as public agency service.

5 (b) If the provisions of this section are in conflict with
6 the provisions of a memorandum of understanding
7 reached pursuant to Chapter 12 (commencing with
8 Section 3560) of Division 4, of Title 1 of the Government
9 Code, the memorandum of understanding shall be
10 controlling without further legislative action, except that
11 if such provisions of a memorandum of understanding
12 require the expenditure of funds, the provisions shall not
13 become effective unless approved by the Legislature in
14 the annual Budget Act.

15 ~~SEC. 4.—~~

16 *SEC. 3.* Notwithstanding Section 17610 of the
17 Government Code, if the Commission on State Mandates
18 determines that this act contains costs mandated by the
19 state, reimbursement to local agencies and school
20 districts for those costs shall be made pursuant to Part 7
21 (commencing with Section 17500) of Division 4 of Title
22 2 of the Government Code. If the statewide cost of the
23 claim for reimbursement does not exceed one million
24 dollars (\$1,000,000), reimbursement shall be made from
25 the State Mandates Claims Fund.

